

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

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In the Matter of

Amendment of the Commission's  
Regulatory Policies to Allow  
Non-U.S.-Licensed Space Stations  
to Provide Domestic and  
International Satellite Service  
in the United States

IB Docket No. 96-111

and

Amendment of Section 25.131 of  
the Commission's Rules and  
Regulations to Eliminate the  
Licensing Requirement for  
Certain Receive-Only Earth  
Stations

CC Docket No. 93-23  
RM-7931

**COMMENTS OF HOME BOX OFFICE**

**HOME BOX OFFICE, a Division  
of Time Warner Entertainment  
Company, L.P.**

Benjamin J. Griffin  
Kathleen A. Kirby  
**REED SMITH SHAW & McCLAY**  
1301 K Street, N.W.  
Suite 1100, East Tower  
Washington, DC 20005  
(202) 414-9200

Its Attorneys

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## **SUMMARY**

Home Box Office, a division of Time Warner Entertainment Company, L.P. ("HBO"), as a provider of subscription video programming services, is a major user of domestic and international satellite capacity. Generally, HBO supports the Commission's deregulatory and pro-competitive satellite policies, including those advanced in the instant rulemaking proceeding. By opening the U.S. market to increased competition from foreign satellite systems, contingent upon foreign markets being opened on a comparable basis to U.S. satellite systems, the Commission will further the development of a competitive satellite supply environment with its concomitant benefits of lower prices, expanded choices, and technological innovation.

The Commission must, however, in crafting its rules, remain sensitive to the needs of U.S. domestic users to ensure an adequate supply of satellites serving the needs of U.S. consumers. Moreover, the Commission must maintain the integrity of its technical and coordination rules to ensure interference-free service to the millions of customers that today are relying on U.S. satellite networks to fill a variety of information and telecommunications service requirements. The rules as proposed in the Notice should be refined to ensure that these policy objectives can be achieved.

First, to guard against the potential for adverse consequences to domestic users and thus, to consumers who

rely on the services these users provide, particularly given the scarcity of spectrum resources suitable for service to the CONUS and to the fifty states, the Commission must adopt a mechanism through which to ensure a balance in the domestic/international mix so that the United States is adequately served. Where there is a conflict between domestic use and foreign use, domestic use should take precedence.

Further, while HBO believes that earth station licensing is the appropriate mechanism through which to authorize access to or from the U.S. via non-U.S.-licensed satellite systems, the ECO-Sat analysis proposed for such licensing must be refined and sharpened to ensure the most accurate assessment of effective and comparable competitive opportunities. This assessment should include a requirement that a critical mass of countries, including the relevant home market, are open to competition from U.S. satellites. The U.S. should not grant substantial market opportunities to non-U.S.-licensed satellite operators in exchange for meaningless or meager opportunities for U.S. entities. In considering the comparability of services under the ECO-Sat test, the Commission should assess the type of satellite for which access is sought and permitted, the type of transmission service sought to be provided, and the ultimate end use of the service. The ECO-Sat analysis should also give considerable weight to the existence of *de facto*

barriers to entry. The burden of proof should be on the applicant to show that such barriers do not exist.

Non-U.S.-licensed satellites which ultimately are allowed to serve the U.S. market should be subject to all technical standards and coordination procedures, including power limitations and two-degree spacing, to which U.S. satellite licensees are subject. Increased interference and performance degradation could occur if non-U.S. operators accessing the U.S. were exempted from the technical specifications generally imposed by the Commission on domestic licensees. Moreover, the Commission's rules should give the U.S. have adequate assurance that interference can be prevented or remedied by any available means.

While the Commission should license both transmit/receive and receive-only earth station antennas for access to non-U.S. satellites, Part 25's antenna size requirements should not be extended to receive-only dishes. As with existing domestic policy, if smaller receive-only antennas do not comply with the Commission's standards, they would not be protected from interference from foreign or domestic satellites operating in accordance with the FCC's satellite technical standards.

Finally, because of the unfair advantages INTELSAT enjoys by virtue of its unique status, HBO objects to the use of INTELSAT satellite facilities to provide U.S. domestic service beyond the limited types provided today. Notwithstanding, HBO believes that at such time as the home

countries of a critical mass of at least two-thirds of the owners of INTELSAT's equity satisfy the Commission's ECO-Sat test, the Commission may consider granting INTELSAT access to the U.S. domestic market. The same should apply to other IGOs.

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Licensing Requirement for	)	
Certain Receive-Only Earth	)	
Stations	)	

**COMMENTS OF HOME BOX OFFICE**

Home Box Office, a division of Time Warner Entertainment Company, L.P. ("HBO"), by its attorneys, hereby submits its comments in response to the Commission's Notice of Proposed Rulemaking ("Notice") in the above-captioned proceeding.<sup>1</sup>

**I. INTRODUCTION/BACKGROUND**

HBO, by itself and through various joint ventures and partnerships, is a major user of domestic and international satellite capacity. HBO uses this capacity to distribute

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<sup>1</sup> FCC 96-21, released May 14, 1996.

subscription video programming services to commercial establishments, as well as directly to consumers.<sup>2</sup>

In addition to the satellite capacity employed by HBO for the distribution of its programming services, HBO uses significant amounts of domestic and international occasional use satellite video capacity to transmit live events (sports, concerts, etc.) from remote sites to HBO's network origination centers. This capacity is obtained by HBO from a broad range of domestic and international satellite carriers and resellers, including INTELSAT and international system operators.

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<sup>2</sup> In the United States, HBO uses C-band transponder capacity on the Galaxy IR, Galaxy IIIIR and Galaxy V satellites to distribute multiple feeds of its HBO and Cinemax programming services to commercial entities (e.g., cable operators, wireless cable operators, telephone companies, hotels), as well as directly to consumer television receive-only earth stations ("TVROs"). In addition, HBO licenses its programming services for distribution over the medium power Ku-band satellites used by PRIMESTAR Partners L.P. and Alphastar Digital Television as well as over the high power direct broadcast satellite ("DBS") systems licensed to United States Satellite Broadcasting Company and EchoStar Communications Corp. In Latin America, HBO has interests in partnerships that distribute the HBO OLE, Cinemax and related services using the PAS-1 and PAS-3 satellites operated by PanAmSat Licensee Corporation ("PanAmSat") as well as Mexico's Solidaridad satellite. The HBO Brasil service is distributed via BrasilSat 1. In Asia, HBO has an interest in a partnership that distributes the HBO Asia service over Palapa C-2 and APSTAR 1. The partnership also has acquired capacity on the soon-to-be-launched APSTAR 2-R. HBO also has capacity on the PAS-4 Indian Ocean Satellite owned by PanAmSat. The HBO Polska service is distributed in Poland via the Kopernikus (DFS-2) satellite. Lastly, HBO has interests in various other programming services using several satellite systems covering Europe.



Since HBO first began using satellites for its services more than two decades ago, it has been a consistent advocate for the Commission's deregulatory and pro-competitive satellite policies. These policies have encouraged the development of a competitive satellite supply environment, offering users lower prices and expanded choices, and spurring technological innovation.

Consistent with its past position, HBO concurs with the general thrust of the Commission's Notice. The policies contained therein seek to foster the greatest possible availability of efficient and innovative satellite communications services for users in the United States and internationally by opening the U.S. market to increased competition from foreign satellite systems, contingent upon foreign markets being opened on a comparable basis to U.S. satellite systems. As a major user of satellite capacity, HBO stands to benefit where the amount of satellite capacity available for users' needs is increased, where competition is keen, and where regulations that impair business' ability to meet their customers' needs are eliminated.

Notwithstanding the benefits of opening U.S. satellite communications markets to foreign service providers, the Commission should keep foremost in mind that orbital and spectrum resources, particularly those orbital positions and frequencies best suited to provide service to the CONUS and to the fifty states, are limited. The Commission must remain sensitive to the needs of U.S. domestic users to

ensure an adequate supply of satellites serving the U.S. market. Moreover, the Commission must maintain the integrity of its technical and coordination rules that are essential to interference-free service to the millions of customers that today are relying on U.S. satellite networks to fill a variety of information and telecommunications services requirements. Accordingly, the Commission, in granting foreign-licensed satellites access to the U.S., must retain the authority to prevent or remedy such interference through appropriate means.

The Commission's proposals also raise broad and difficult issues concerning international trade and competition -- issues which may not be sufficiently addressed under the framework proposed in the Notice. In moving toward further liberalization of its domestic and international satellite regulatory policies, therefore, and as discussed more fully below, the Commission should make certain that any rules it adopts contain safeguards to ensure that domestic services are not sacrificed by the desires of satellite operators to use prime U.S. orbital positions for international services, and that U.S. operators are afforded true comparable competitive opportunities abroad.

**II. DOMESTIC NEEDS SHOULD REMAIN  
THE COMMISSION'S PREEMINENT CONCERN**

As a general matter, HBO wishes to emphasize, as it did in comments submitted regarding the Commission's initial

review of regulations governing domestic fixed and separate international satellite systems,<sup>3</sup> that, while liberalization of the Commission's policies concerning satellite services in order to foster a competitive global telecommunications market is an important endeavor, any move toward the globalization of satellite services cannot come at the expense of the needs of U.S. consumers. Millions of consumers rely on domestic satellite networks to fill a variety of information and telecommunications services requirements. The rules adopted by the Commission in this proceeding must ensure that the needs of U.S. consumers are not compromised.

As HBO explained in the DISCO I proceeding, the geostationary arc suitable for satellites to provide domestic services is not unlimited. With generally uniform two-degree spacing, the domestic fixed satellite arc extends from 64 degrees W.L. to 105 degrees W.L. in the east and from 121 degrees W.L. to 135 degrees W.L. (for Ku-band satellites) and 143 degrees W.L. (for C-band satellites) in the west.<sup>4</sup> Only a limited number of these orbital positions

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<sup>3</sup> *Amendment to the Commission's Regulatory Policies Governing Domestic Fixed Satellites and Separate International Systems*, 11 FCC Rcd 2429 (1996) ("DISCO I").

<sup>4</sup> *Assignment of Orbital Locations to Space Stations in the Domestic Fixed Satellite Service*, 3 FCC Rcd 6972 (1988). The portion of the arc from 105 degrees W.L. to 121 degrees W.L. is set aside for Canadian and Mexican satellites. Id.

are suitable for 50 state satellite coverage. Currently, there are twenty-seven (27) satellites operating in the domestic arc. The Commission recently has authorized the construction and launch of eleven (11) satellites. Fourteen (14) domestic orbital positions are, or, with the near-term retirement of aging satellites, soon will be, unassigned.<sup>5</sup>

By eliminating the distinction between domestic and international fixed satellite services through adoption of the proposals set forth in DISCO I, the Commission took the first step toward increasing the amount of satellite capacity that can serve both domestic and international points. The DISCO I policies likely will increase demand for prime domestic orbital positions because these positions can now be used to serve a much broader market for both domestic and international communications requirements. If limited numbers of prime domestic orbital positions are devoted more and more to international services, however, a shortage of orbital positions and satellite services available for domestic users could develop. This shortage could be magnified should the Commission permit foreign entities to provide international service from prime domestic orbital positions. Foreign entities may begin vying more aggressively for primary U.S. domestic orbital

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<sup>5</sup> *Assignment of Orbital Locations to Space Stations in the Domestic Fixed Satellite Service*, DA 96-713 (released May 7, 1996). Unassigned orbital positions at C-band and at Ku-band are counted as separate unassigned orbital positions.

positions and/or urging a redistribution of orbital locations, creating the potential for adverse consequences to domestic users and, thus, to consumers who rely on the services these users provide.

Although satellite users theoretically would benefit from domestic satellites having the coverage and authorization to serve the U.S. market as well as foreign markets, such is not necessarily the case with programming companies such as HBO. In fact, the use of satellites which cover both domestic and foreign markets is, in cases such as HBO's, typically undesirable.

Program rights are usually sold on a country-by-country or region-by-region basis. For example, HBO does not have rights to distribute the HBO and Cinemax services distributed in the United States to foreign countries. Accordingly, because HBO has little or no ability to serve foreign markets with its domestic satellite feeds, HBO would not benefit by transmitting its domestic services over satellites that also could cover Canada and South America. Where HBO does provide services in foreign countries (e.g., HBO OLE in Latin America), it obtains separate programming rights for those countries and relies on satellites that provide high quality transmissions into the targeted territory. Thus, for many programmers, it is more advantageous to use multiple satellites with separate coverages focused on required markets rather than a single

satellite covering a broad area encompassing multiple, diverse countries.<sup>6</sup>

The Commission recognizes that there may be instances where there is insufficient spectrum to support competing U.S. and non-U.S. satellite systems that wish to serve the United States. Notice at ¶ 51. The Commission seeks comment on mechanisms that could be implemented to facilitate fair competition. HBO concurs with the Commission's proposal to consider any mutual satellite coordination issues that may be underway with the foreign satellite operator's country as one method to ensure the fair competition. Other pertinent considerations would include the extent to which the foreign satellite operator would serve unmet U.S. transmission needs and whether the foreign satellite operator would provide significant new competition in the U.S. domestic market.

The Commission must recognize and adhere to a policy that the domestic arc is a resource that should be devoted primarily to the fulfillment of domestic communications

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<sup>6</sup> Multiple country satellite transmissions also exacerbates the "grey market" for program reception. Currently, through encryption, HBO generally is able to prevent reception of its programming in the Canadian and Latin American "spill-over" territories covered by the footprint of HBO's satellites. There is, however, acknowledged to be a grey market for program services fueled by individuals and companies transporting U.S. decoding equipment to Canada or Latin America. Where satellite systems incorporate broader footprints in response to the ability to provide international service, the grey market problem would become larger and there would be increased efforts by pirates to breach the security systems used by the programmers.

requirements. In crafting its regulatory framework, the Commission must recognize that while its policy goals may include both the benefits to be accrued by opening the U.S. market to competition from foreign-licensed satellites and the fulfillment of domestic telecommunications needs, these may, at times, be conflicting interests. The Commission's regulations governing the provision of satellite service to the United States, whether from U.S.-licensed or foreign satellites, therefore, should include a mechanism to ensure a balance in the domestic/international mix so that the United States is adequately served.<sup>7</sup> Where there is a conflict between domestic use and foreign use, domestic use should take precedence.

### **III. PROCEDURAL FRAMEWORK FOR AUTHORIZING ACCESS TO NON-U.S. SATELLITES**

#### **A. Earth Station Licensing Is The Appropriate Mechanism Through Which To Authorize Access To Non-U.S. Space Stations**

The Commission proposes to continue to use the earth station licensing process as the regulatory vehicle for authorizing access to or from the United States via non-U.S.-licensed satellite systems. Notice at ¶ 14. Under the Commission's proposal, any earth station user or operator in the United States that wishes to send or receive

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<sup>7</sup> For example, the Commission might condition its grant of earth station licenses to communicate with foreign satellites on a showing that sufficient domestic capacity is available either from U.S. licensees or from the foreign-licensed satellite operator.

transmissions over a non-U.S. satellite "must apply for and receive a Title III license to communicate with the non-U.S. satellite." Id. at ¶ 15 (footnotes omitted). HBO concurs that earth station licensing is the best mechanism through which to prevent competitive distortions in the U.S. market and to ensure responsible spectrum management.

Under the Commission's proposed legal framework, an earth station user would submit an application to operate with a non-U.S. satellite system. The Commission then would apply the "ECO-Sat test" set forth in its Notice to determine whether the proposal falls within the scope of effective competitive opportunities for U.S. satellite operators abroad. Further, the Commission would consider whether any countervailing public interest factors weigh in favor of a result different from the one the Commission would reach under its ECO-Sat analysis, including Executive Branch concerns. Notice at ¶ 15.

HBO submits that the use of the earth station licensing process to regulate the use in the United States of foreign-licensed satellites will be an effective mechanism for analyzing all of the factors leading to a determination of whether service to the United States by a foreign-licensed satellite is appropriate. Accordingly, the Commission should license all earth stations, both transmit/receive and receive-only, that involve the use of non-U.S. licensed geostationary satellites.



The Commission's proposals place the burden on the earth station applicant to prove that the foreign system with which the earth station applicant wishes to communicate has satisfied the ECO-Sat test, and that the foreign satellite is meeting U.S. technical and legal requirements. To preserve Commission resources and to minimize burdens on earth station applicants, HBO recommends that the Commission's rules include an additional mechanism through which the satellite operator itself could file an application with the Commission to demonstrate that it has satisfied the ECO-Sat test and that its system meets the technical and legal requirements established by the Commission. If the Commission grants the satellite operator's application for service to specific countries with specific uses, earth station applicants proposing operation within the scope of the permitted use could then merely reference the Commission's prior determination and their applications could be granted more expeditiously. This procedure would eliminate the requirement that multiple earth station applicants file repetitive ECO-Sat and technical and legal analyses.

**B.    The Commission Should Not Separately  
License Non-U.S. Space Stations**

As the Commission concludes in its Notice, the public interest would not be served by requiring foreign systems to obtain space station licenses from the United States before

serving the U.S. market.<sup>8</sup> Such licenses would be redundant, as ITU procedures call for each satellite to be registered and coordinated internationally by only one administration. As long as a satellite is properly coordinated by the sponsoring administration through the ITU procedures and meets the Commission's technical standards for satellites operating in the domestic arc, there is no need for separate licensing by all countries served.

#### **IV. THE ECO-SAT TEST**

##### **A. The Commission Should Permit Non-U.S.-Licensed Satellites To Provide Satellite Services In The United States Only To The Extent That U.S.-Licensed Satellite Operators Have Reciprocal Effective Competitive Opportunities**

Central to the Commission's proposal to open U.S. markets to services provided by non-U.S.-licensed satellites is the requirement that the Commission will do so only if it finds that the "home market" of the relevant foreign satellite, as well as some or all of the countries to or from which the satellite will provide service, are already fully open to U.S. satellite providers so that they may provide similar services on a reciprocal basis, the so-called "ECO-Sat" test.<sup>9</sup>

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<sup>8</sup> Notice at ¶ 14.

<sup>9</sup> Id. at ¶ 22.

HBO generally endorses the concept of allowing foreign satellite operators to provide services within the United States if the principles of competition, non-discrimination and open access are followed by one or more countries that in the aggregate provide competitive opportunities to U.S. satellite operators that are comparable to the opportunities afforded the non-U.S. satellite operator seeking access to the United States. The United States would be well served by additional "foreign" satellite competition -- particularly at a time when there are a limited number of satellite providers in the United States. Moreover, U.S. interests would be served where foreign markets are opened to competition and U.S. satellites are afforded access. HBO concurs with the Commission's conclusion that unrestricted access to the domestic market by non-U.S. systems without assurances of comparable reciprocity, however, will affect adversely the competitive position of U.S. operators.<sup>10</sup>

**B. The ECO-Sat Analysis Should Be Sharpened**

While HBO agrees in theory with the ECO-Sat test, HBO has concerns about the adequacy of the ECO-Sat analysis to make accurate determinations regarding the true competitive openness of the relevant home and route markets. HBO submits that the test should be refined and applied with precision to ensure the most accurate assessment of effective and comparable competitive opportunities.

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<sup>10</sup> Notice at ¶ 11.

# 1. Market Comparability

The first issue that the ECO-Sat analysis should consider is the comparability between the U.S. market to which the non-U.S. licensed satellite operator seeks access and the home market and route markets that are opened to U.S. operators. HBO submits that this is a delicate and difficult comparison, given the unique nature of the lucrative U.S. market. If the home market, and/or an aggregate of the home market and the route markets are small or undeveloped, access to those markets by U.S. operators may not justify the grant of access to the much larger U.S. market by the foreign entity. Such would especially be the case if the foreign-licensed entity were seeking to utilize scarce orbital positions that are particularly well-suited for U.S. domestic service.

For example, while the Kingdom of Tonga might open its domestic market to foreign-licensed satellites, that fact alone should not necessarily justify access to much larger home country markets by Tonga satellites. Similarly, a satellite licensed to Luxembourg and providing service to all of Europe should not necessarily be permitted to access the U.S. domestic market based on the opening of the Luxembourg market alone. What is required in these situations is an assessment that a critical mass of countries, including the relevant home country, are open to competition from U.S.-licensed satellites. Without such a market comparability analysis, the United States might well

find itself granting substantial market opportunities to non-U.S. licensed satellite operators in exchange for meaningless or meager opportunities for U.S. entities.

## 2. Service Comparability

HBO concurs with the Commission's proposal to permit foreign licensed satellites "to enter the U.S. market for those services that can be competitively offered abroad by U.S. satellites, but not for other satellite services."

Notice at ¶ 33. HBO submits, however, that the Commission's service comparability analysis needs further refinement. In considering the comparability of the services, the Commission should assess the type of satellite for which access is sought and permitted, the type of transmission service sought to be provided and the ultimate end use of the service.

With respect to the type of satellite, any restrictions imposed by foreign governments on U.S. entry based on satellite class (e.g., fixed satellite, DBS, mobile satellites) or frequency (e.g., C-band, Ku-band) should be reflected in U.S. restrictions on foreign satellites entering the U.S. market. Similarly, the types of transmissions permitted (e.g., video, data, voice) also should be comparable. Finally, the permitted end use in the relevant foreign markets should be substantially the same as the end use sought in the United States by the foreign operator.

As an example of the service comparability analysis described above, consider that relevant foreign markets might permit the use of foreign C-band satellites only for private line voice communications (i.e., not connected to the public switched network). A foreign satellite operator seeking access to the United States, accordingly, should be limited to the use of C-band fixed satellites for private line voice transmissions. Similarly, if relevant foreign markets permitted the use of Ku-band fixed satellites only for video distribution to commercial entities (i.e., cable headends) and not direct-to-home ("DTH") services, similar transmission types and end use restrictions should apply to the foreign satellite operator's services in the United States. Conversely, certain markets permit foreign satellites to provide DTH video services, while prohibiting them from connecting with cable headends.

### 3. Access Comparability

HBO supports the Commission's determination to measure the openness of relevant foreign markets by both a *de jure* and a *de facto* standard. Evaluation of *de jure* open access will be relatively simple. The very real and competitively onerous *de facto* barriers, however, will be much more difficult to detect and to analyze.<sup>11</sup>

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<sup>11</sup> For example, in some countries, barriers to the importation of foreign program content may effectively preclude the use of U.S. satellites for video distribution, although the *de jure* rules in effect would permit such use.

HBO submits that the Commission's ECO-Sat analysis should give considerable weight to the existence of *de facto* barriers. Although the Commission proposes to place the burden of proving the existence of *de facto* barriers on any party that opposes the use of a non-U.S. satellite to provide service in the United States, HBO believes that the burden of proof should be on the applicant to show that such barriers do not exist. The burden to establish the *de facto* openness of a market is especially appropriate given the foreign entity's presumed knowledge of its home and route markets and the difficulty that opponents might have in understanding and articulating the instances of *de facto* barriers to entry.

**V. TECHNICAL CONSIDERATIONS**

**A. Non-U.S.-Licensed Satellites Entering The U.S. Market Should Be Subject To The Same Technical Standards And Coordination Procedures Applicable To U.S. Satellite Licensees**

The Commission should ensure that non-U.S.-licensed satellites which ultimately are allowed to serve the U.S. market are subject to all technical standards and coordination procedures, including power limitations and two-degree spacing, to which U.S. satellite licensees are uniformly subject. Increased interference and performance degradation easily could occur if non-U.S. licensees were exempted from the technical specifications generally imposed by the Commission on domestic licensees. Moreover, this

policy is necessary for predictability in allocating spectrum and in the planning of future satellite systems.

The Commission's technical standards are designed to (1) reduce interference between satellites, and (2) maximize orbital and spectral efficiency. By requiring that non-U.S. satellites adhere to the same standards as U.S. satellite licensees, the Commission will ensure that these two public interest goals are furthered by all satellites serving the U.S. market. If non-U.S. satellites were permitted to participate in the U.S. market without being required to conform to these standards, their operation could adversely affect U.S. satellites through increased interference, thereby reducing the capacity and degrading the performance of these U.S. systems.

Moreover, non-U.S. satellites that do not conform to U.S. technical standards could be using scarce orbital spectrum in a less efficient manner than achievable under U.S. standards. The public interest would be disserved by such an inefficient use, resulting in less available capacity and higher costs. Finally, non-conforming non-U.S. satellites would derive an unfair competitive advantage, because their satellites could be less costly to construct than compliant U.S. systems, and their nonconformance would impose unwarranted operational penalties, such as potential loss of capacity and degradation of service, on U.S. satellites.



Accordingly, all market entrants should be required to comply with Part 25 standards, including power limitations and two-degree spacing. The United States also must have adequate assurance that interference can be prevented or remedied by any available means, including pre-launch coordination, modification of system coverage, or, in extreme cases, cessation of service, all of which the Commission can require of U.S. licensees.<sup>12</sup>

**B. Receive-Only Earth Stations Should Not Be Subject To Minimum Size Restrictions**

With regard to technical considerations, at Paragraph 55 of its Notice, the Commission seeks comment on its proposal to apply Part 25's antenna size requirements to all C-band and Ku-band earth stations in the U.S., regardless of whether they are communicating with U.S. or non-U.S. space stations. As stated above, HBO believes that the Commission should license all earth stations, both transmit/receive and receive-only, that involve the use of non-U.S. licensed geostationary satellites. The Commission should not, as a result, however, extend Part 25's antenna size requirements to receive-only earth station antennas. While existing antenna size restrictions are appropriate for transmit antennas, the Commission should make clear that it will

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<sup>12</sup> All earth station licenses granted for communication with non-U.S.-licensed satellites should be conditioned upon the non-U.S. satellite's continued compliance with Commission technical rules and the avoidance of interference. Applications for earth station licenses to access non-U.S. satellites that do not comply with these technical and non-interference requirements should be denied.